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Attorneys for Defendant, Counter-Complainant,
Cross-Complainant, and Third-Party Complainant
S.J. GARGRAVE SYNDICATE 2724
8ZP848

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

INCHCAPE SHIPPING SERVICES GUAM,
LLC,

Plaintiff in Intervention,

vs.

MARWAN SHIPPING & TRADING CO.,
FIVE SEAS SHIPPING CO., LLC, and S.J.
GARGRAVE SYNDICATE 2724, *in*
personam,

Defendants.

AND CROSS-CLAIMS, COUNTERCLAIM,
AND CLAIM IN INTERVENTION

FILED
DISTRICT COURT OF GUAM
FEB 20 2007
MARY L.M. MORAN
CLERK OF COURT

Civil Case No.: 06-00011

**S.J. GARGRAVE SYNDICATE 2724'S
REQUEST TO FILE FACSIMILE
FILING**

Complaint Date: April 19, 2006
Trial Date: None Set

ORIGINAL

1 In accordance with General Rule 5.1(a), Defendant Cross-Claimant and Counterclaimant
2 S.J. GARGRAVE SYNDICATE 2724 (hereinafter "Gargrave") hereby requests that the Court
3 grant permission for Gargrave to submit the attached facsimile filing, Affidavit of Myles A.
4 Sunley. The Affidavit is in support of Gargrave's Notice of Motion and Motion to Dismiss
5 Marwan Shipping & Trading Co., LLC and Five Seas Shipping Co., LLC or Alternatively to Stay
6 the Crossclaim.

7 Mr. Sunley signed the Affidavit. However, because he currently resides in London,
8 England, his signature on the Affidavit is a facsimile. Mr. Sunley will be sending to Guam the
9 office of Thomas McKee Tarpley, an original copy of the Affidavit via courier. Upon receipt of
10 the original signature, undersigned counsel will immediately file it with Court.

11 Dated this 20 day of February, 2007.



14 THOMAS McKEE TARPLEY,
15 ATTORNEY FOR DEFENDANT, CROSS-CLAIMANT
16 AND COUNTERCLAIMANT S.J. GARGRAVE
17 SYNDICATE 2724
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1 **CERTIFICATE OF SERVICE**


2 I, Thomas M. Tarpley, Jr., hereby certify pursuant to Rule 5(d) Fed. R. Civ. P. that on
3 February 20, 2007, I caused to be served a true and correct copy of the **S.J. GARGRAVE**
4 **SYNDICATE 2724'S REQUEST TO FILE FACSIMILE FILING**, to the following:
5

6 R. Michael Underhill, Esq.
7 Attorney in Charge
8 c/o Mike W. Schwab, Esq.
9 OFFICE OF THE UNITED STATES ATTORNEY
10 108 Hernan Cortez Avenue, Suite 500
11 Hagatna, Guam 96910
12 *Attorneys for Plaintiff and Counterdefendant United States of America*

13 John E.D. Powell, Esq.
14 c/o Lawrence J. Teker, Esq.
15 TEKER TORRES & TEKER, P.C.
16 Suite 2-A, 130 Aspinall Avenue
17 Hagatna 96910-5018, Guam
18 *Attorneys for Defendants and Cross-Defendants Marwan Shipping & Trading Co.*
19 *and Five Seas Shipping Co., LLC*

20 David P. Ledger, Esq.
21 Elyze J. McDonald, Esq.
22 CARLSMITH BALL LLP
23 Bank of Hawaii Building
24 Suite 401
25 134 West Soledad Avenue
26 Hagatna, Guam 96910
27 *Attorneys for Intervenor Inchcape Shipping Services Guam LLC*

28 Dated this 20 day of February, 2007.

22 
23 _____
24 THOMAS McKEE TARPLEY,
25 Attorney for Defendant
26 S.J. GARGRAVE SYNDICATE 2724, *in personam*

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S.J. GARGRAVE SYNDICATE 2724
8ZP847W

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

INCHCAPE SHIPPING SERVICES GUAM,
LLC,

Plaintiff in Intervention,

vs.

MARWAN SHIPPING & TRADING CO.,
FIVE SEAS SHIPPING CO., LLC, and S.J.
GARGRAVE SYNDICATE 2724, *in*
personam,

Defendants.

AND CROSS-CLAIMS, COUNTERCLAIM,
AND CLAIM IN INTERVENTION

Civil Case No.: 06-00011

**AFFIDAVIT OF MYLES A. SUNLEY
IN SUPPORT OF S.J. GARGRAVE
SYNDICATE 2724'S MOTION TO
DISMISS CROSSCLAIM OF
MARWAN SHIPPING & TRADING
CO., LLC., AND FIVE SEAS SHIPPING
CO., LLC, OR ALTERNATIVELY TO
STAY THE CROSSCLAIM**

Complaint Date: April 19, 2006
Trial Date: None Set

ORIGINAL

1 I, Myles A. Sunley, affirm as follows:

2 1. I am a resident and citizen of England. I am authorized to speak on behalf of S.J.
3 GARGRAVE SYNDICATE 2724 ("Gargrave"), an unincorporated association of Underwriters,
4 organized and existing under the laws of the United Kingdom. I have personal knowledge of the
5 matters herein affirmed, and if required to testify thereto, could and would competently do so.

6 2. Gargrave was at all pertinent times in the business of underwriting marine risks.

7 3. Environmental Protection Group LLC ("EPG") is a coverholder with an open
8 cover agreement with Gargrave, meaning that EPG is authorized under certain circumstances to
9 bind Gargrave to financial guarantees that EPG provides on Gargrave's behalf.

10 4. On or about August 19, 2004, EPG received a facsimile from Navigators
11 Management (UK) Ltd. ("Navigators"). The facsimile attached a Guarantee Request form for the
12 M.V. AJMAN 2, and explained that she was on a "delivery voyage" from Mexico to the United
13 Arab Emirates, by way of the Philippines for refueling. It also explained that the M.V. AJMAN 2
14 was registered under the flag of the Democratic People's Republic of Korea, and was attempting
15 to put into Apra Harbor due to bad weather and low fuel reserves. A true and correct copy of the
16 facsimile is attached hereto as **Exhibit A** and incorporated by reference thereas.

17 5. On or about August 19, 2004, EPG agreed, in support of the application of FIVE
18 SEAS SHIPPING CO, LLC ("Five Seas") for certification of financial responsibility for water
19 pollution, to assume financial responsibility of the M.V. AJMAN 2 by way of surety bond
20 guaranty and/or financial guaranty. A true and correct copy of Five Seas' "Application for Vessel
21 Certification of Financial Responsibility (Water Pollution)," U.S. Coast Guard form no. 5585,
22 incorporated in Five Seas' Crossclaim as "Exhibit 2," is attached hereto as **Exhibit B** and
23 incorporated by reference thereas or as "COFR Application."

24 6. Also on or about August 19, 2004, Navigators sent a facsimile to Ropner Insurance
25 Services Ltd ("Ropner"), which is licensed by the Lloyd's market to place insurance. Navigators
26 requested that Ropner arrange for pollution coverage of the M.V. AJMAN 2. A true and correct
27 copy of that facsimile is attached hereto as **Exhibit C**, and incorporated by reference thereas.

1 7. Ropner arranged for Gargrave to underwrite the pollution risk in the way
2 evidenced by the Cover Note attached to Marwan and Five Seas' Crossclaim as "Exhibit 1," and
3 attached hereto as **Exhibit D** and incorporated thereas or as "Cover Note."

4 I, Myles A. Sunley, affirm and certify under penalty of perjury of the laws of the United
5 States, of the laws of Guam, and of the laws of England, that the foregoing is true and correct on
6 this 13 day of February 2007 at London, England.

7 By: _____


Myles A. Sunley

1 **CERTIFICATE OF SERVICE**


2 I, Thomas M. Tarpley, Jr., hereby certify pursuant to Rule 5(d) Fed. R. Civ. P. that on
3 February 20, 2007, I caused to be served a true and correct copy of the **AFFIDAVIT OF**
4 **MYLES A. SUNLEY IN SUPPORT OF S.J. GARGRAVE SYNDICATE 2724'S MOTION**
5 **TO DISMISS CROSSCLAIM OF MARWAN SHIPPING & TRADING CO., LLC, AND**
6 **FIVE SEAS SHIPPING CO., LLC, OR ATERNATIVELY TO STAY THE**
7 **CROSSCLAIM**, to the following:

9 R. Michael Underhill, Esq.
10 Attorney in Charge
11 c/o Mike W. Schwab, Esq.
12 OFFICE OF THE UNITED STATES ATTORNEY
13 108 Hernan Cortez Avenue, Suite 500
Hagatna, Guam 96910
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Suite 2-A, 130 Aspinall Avenue
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*Attorneys for Defendants and Cross-Defendants Marwan Shipping & Trading Co.
and Five Seas Shipping Co., LLC*

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20 CARLSMITH BALL LLP
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134 West Soledad Avenue
Hagatna, Guam 96910
Attorneys for Intervenor Inchcape Shipping Services Guam LLC

23 Dated this 20 day of February, 2007.

24
25
26 
27 THOMAS MCKEE TARPLEY,
Attorney for Defendant
28 S.J. GARGRAVE SYNDICATE 2724, in personam